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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

JUSTIN RINGGOLD-LOCKHART,

Plaintiff and Appellant,

v.

MYER J. SANKARY, as Successor  
Trustee, etc.,

Defendant and Respondent,

ANDRE-PAUL SUMMERS  
CHAUSSIER, as Successor Trustee, etc., et  
al.

Respondents.

B212797

(Los Angeles County  
Super. Ct. No. PP005201)

APPEAL from an order of the Superior Court of Los Angeles County, Aviva K. Bobb, Judge. Affirmed.

Nina Ringgold for Plaintiff and Appellant.

Law Offices of Andrea Lynn Rice and Andrea Lynn Rice for Defendant and Respondent.

Oldman, Cooley, Sallus, Gold, Birnberg & Coleman, Marshal A. Oldman and Mary-Felicia Apanius for Respondent Andre-Paul Summers Chaussier, as Successor Trustee of the Summers Family Trust.

Law Office of Marc L. Edwards and Marc L. Edwards for Respondents Marc L. Edwards and Ernest Gordon Saunders, as Trustees of the Mary Louella Saunders Supplemental Needs Trust.

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## I. INTRODUCTION

Justin Ringgold-Lockhart (plaintiff) appeals from an October 1, 2008 order. The probate court ruled he lacked standing to participate in the probate proceeding. We affirm the order.

## II. BACKGROUND

On October 12, 2007, plaintiff and Nina Ringgold filed a verified petition for: an order to show cause re contempt; issuance of citation to appear and account for trust property; suspension and removal of trustee; immediate issuance of temporary restraining order and order to show cause for preliminary injunction; permanent injunction; partition by appraisal or sale; constitutional rights violation; surcharge (Prob. Code,<sup>1</sup> § 859); breach of trust (§ 16420); and reimbursement of distributions made and imposition of constructive trust. On September 17, 2008, Myer J. Sankary, successor trustee of the Aubry Revocable Family Trust dated March 4, 1987, filed a motion in limine seeking a determination plaintiff did not have standing to bring the October 12, 2007 petition. Mr. Sankary argued plaintiff was not an interested party within the meaning of section 48, subdivision (a)(1). On October 1, 2008, following a hearing, the probate court found plaintiff lacked standing to bring the petition. On October 2, 2008, after repeatedly giving Ms. Ringgold an opportunity to proceed, the probate court dismissed the October 12, 2007 petition as to her without prejudice for failure to prosecute.

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<sup>1</sup> All future statutory references are to the Probate Code.

### III. DISCUSSION

#### A. Jurisdiction

Plaintiff argues the trial court had no jurisdiction to rule on Mr. Sankary's in limine motion because a stay was in effect under section 1310. Section 1310, subdivision (a) states in part, "[A]n appeal pursuant to [section 1300 et seq.] stays the operation and effect of the judgment or order." Generally, a notice of appeal divests the trial court of jurisdiction of the subject matter while on review and the trial court has no power to vacate or modify the appealed judgment or order. (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 196-197 [Code Civ. Proc., § 916]; *Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400, 1427-1428 [same]; *In re Marriage of Varner* (1998) 68 Cal.App.4th 932, 935 [same].) Any action taken in the trial court after the notice of appeal is filed is a nullity. (*Varian Medical Systems, Inc. v. Delfino, supra*, 35 Cal.4th at p. 197; *Davis v. Thayer* (1980) 113 Cal.App.3d 892, 912.) The purpose of the automatic stay is to protect the appellate court's jurisdiction and preserve the status quo while the appeal is pending. (*Varian Medical Systems, Inc. v. Delfino, supra*, 35 Cal.4th at p. 198; *City of Santa Monica v. Stewart* (2005) 126 Cal.App.4th 43, 79; *Dowling v. Zimmerman, supra*, 85 Cal.App.4th at p. 1428.) The statutory automatic stay provision renders void any subsequent action taken in the trial court on matters "embraced" in or "affected" by the appeal. (*Varian Medical Systems, Inc. v. Delfino, supra*, 35 Cal.4th at p. 198; *In re Marriage of Varner, supra*, 68 Cal.App.4th at p. 935.) Whether a particular matter is embraced in or affected by a pending appeal depends on whether the purpose of the stay's protection of appellate jurisdiction would be frustrated by further trial court proceedings. (*City of Santa Monica v. Stewart, supra*, 126 Cal.App.4th at p. 79; *Marriage of Varner, supra*, 68 Cal.App.4th at p. 935; *Elsea v. Saberi* (1992) 4 Cal.App.4th 625, 629.)

Plaintiff's brief on appeal is devoid of any analysis with reference to the record as to whether the pending appeals—identified by plaintiff as case Nos. B201148, B202858 and B210169—divested the probate court of jurisdiction to rule on the October 12, 2007 petition. As a result, the argument has been forfeited. (*Dahms v. Downtown Pomona Property & Business Improvement Dist.* (2009) 174 Cal.App.4th 708, 713-714, fn. 2; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115-1116; *Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545-546.)

## B. Standing

We turn to the question whether plaintiff had standing to bring the October 12, 2007 petition in the probate court. If plaintiff had no standing, as the probate court found, then we need not reach any other issue he raises. (See *Californians for Disability Rights v. Mervyn's, LLC* (2006) 39 Cal.4th 223, 232-233 [lack of standing is jurisdictional]; *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 438 [same].) Plaintiff asserts the probate court erred in concluding he had no standing to bring the October 12, 2007 petition. An “interested person” within the meaning of section 48 has standing to participate in probate proceedings. (*Estate of Loring* (1946) 29 Cal.2d 423, 428; *Estate of Davis* (1990) 219 Cal.App.3d 663, 668.) Section 48 provides in part: “(a) Subject to subdivision (b), ‘interested person’ includes any of the following: [¶] (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding. [¶] . . . [¶] (b) The meaning of ‘interested person’ as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.” The Court of Appeal has held: “Subdivision (a) of section 48 does not purport to provide an exclusive list of recognizable interests. Rather, it permits the court to designate as an interested person anyone having an interest in an estate which may be affected by a

probate proceeding. Subdivision (b) allows the court to determine the sufficiency of that party's interest for the purposes of each proceeding conducted. Thus, a party may qualify as an interested person entitled to participate for purposes of one proceeding but not for another.” (*Estate of Davis, supra*, 219 Cal.App.3d at p. 668; accord, *Estate of Maniscalco* (1992) 9 Cal.App.4th 520, 523-524.) The Court of Appeal has explained: “[S]tanding for purposes of the Probate Code is a fluid concept dependent on the nature of the proceeding before the trial court and the parties’ relationship to the proceeding, as well as to the trust (or estate). This means that before the issue of standing can be resolved, we must understand the nature of the proceedings so that we may determine the parties’ relationship to it. As a practical matter, standing and the merits are closely tied, and it is often necessary to come to terms with the substantive claim before the issue of standing can be satisfactorily resolved.” (*Arman v. Bank of America* (1999) 74 Cal.App.4th 697, 702-703.) The requirement that only an “interested person” has standing to participate in probate proceedings: prevents delays in settling estate matters; gives the probate court control over proceedings and parties; and thus ensures the orderly administration of the estate. (*Estate of Maniscalco, supra*, 9 Cal.App.4th at p. 523; see *Estate of Powers* (1979) 91 Cal.App.3d 715, 719.)

We interpret unambiguous trust provisions as a matter of law. (*Burch v. George* (1994) 7 Cal.4th 246, 254; *Gardenhire v. Superior Court* (2005) 127 Cal.App.4th 882, 887, fn. 4; *Burkett v. Capovilla* (2003) 112 Cal.App.4th 1444, 1449.) We must first ascertain and, if possible, give effect to the maker’s intent. (*Newman v. Wells Fargo Bank* (1996) 14 Cal.4th 126, 134; *Estate of Gump* (1940) 16 Cal.2d 535, 548; *Estate of Russell* (1968) 69 Cal.2d 200, 205-206; *Gardenhire v. Superior Court, supra*, 127 Cal.App.4th at p. 888; *Crook v. Contreras* (2002) 95 Cal.App.4th 1194, 1205.) We review the trial court’s standing determination for an abuse of discretion. (*Estate of Prindle* (2009) 173 Cal.App.4th 119, 126; *Arman v. Bank of America, supra*, 74 Cal.App.4th at p. 702 ; *Estate of Maniscalco, supra*, 9 Cal.App.4th at p. 525.)

Plaintiff argues he is an interested person because he is a successor in interest after his mother with a future interest in the trust and he has a current right to trust principle as the issue of an income beneficiary, Ms. Ringgold. We have reviewed the trust provisions and find no support for plaintiff's assertions. Plaintiff has not shown he is a beneficiary of the trust. Plaintiff has not established his mother, Ms. Ringgold, is an income beneficiary of the trust. Plaintiff might inherit trust property from his mother in the future, but that possibility does not give him a property right in or claim against the trust estate that may be affected by the probate proceeding. (§ 48, subd. (a)(1); *Estate of Maniscalco, supra*, 9 Cal.App.4th at pp. 523-524; *Estate of Davis, supra*, 219 Cal.App.3d at p. 668.) Moreover, on December 16, 2005, the probate court entered an order determining distribution rights. Pursuant to the December 16, 2005 order, the remainder of the trust was to be distributed in the following percentages: Eunice Aubry-Summers, 25 percent; Ms. Ringgold, 8.25 percent; issue of Milterine Hines, 22.25 percent; issue of Carrie Belle Williams, 22.25 percent; and Mary Louella Saunders, 22.25 percent. The December 16, 2005 order was affirmed on appeal as to Ms. Ringgold. (*Saunders v. Sankary* (Jan. 29, 2007, B188155 [nonpub. opn.]).) Plaintiff has no interest in the trust under the December 16, 2005 distribution order. That order supersedes the trust provisions and is the conclusive determination of the trust's validity, meaning, and effect. (*Estate of Callnon* (1969) 70 Cal.2d 150, 156; *Keating v. Smith* (1908) 154 Cal. 186, 191; *Meyer v. Meyer* (2008) 162 Cal.App.4th 983, 992; *Estate of Russell* (1971) 17 Cal.App.3d 758, 764-765.)

### C. Remaining Issues

Plaintiff raises several issues that are unrelated to the lack of standing determination made on October 1, 2008. The notice of appeal is from the order entered on October 1, 2008. (The October 2, 2008 order affected Ms. Ringgold only.) Any other issues are beyond the scope of the present appeal and may not be considered. (*Glassco v.*

*El Sereno Country Club, Inc.* (1932) 217 Cal. 90, 91-92; *Colony Hill v. Ghamaty* (2006) 143 Cal.App.4th 1156, 1172; *Sole Energy Co. v. Petrominerals Corp.* (2005) 128 Cal.App.4th 212, 239; *Norman I. Krug Real Estate Investments, Inc. v. Praszker* (1990) 220 Cal.App.3d 35, 47.)

#### IV. DISPOSITION

The October 1, 2008 order is affirmed. Defendants, Myer J. Sankary, as successor trustee of the Aubry Revocable Family Trust, Andre-Paul Summers Chaussier, as successor trustee of the Summers Family Trust, Marc L. Edwards, and Ernest Gordon Saunders, as trustees of the Mary Louella Saunders Supplemental Needs Trust, are to recover their costs on appeal from plaintiff, Justin Ringgold-Lockhart.

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TURNER, P. J.

We concur:

ARMSTRONG, J.

FLIER, J.\*

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\* Associate Justice of the Court of Appeal, Second Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.